

RECEIVED
CENTRAL FAX CENTER
OCT 13 2009

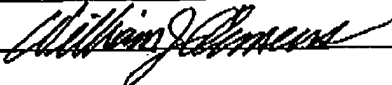

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-09)

Approved for use through 07/31/2012, OMB 0851-0031

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1985, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 15632	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>October 13, 2009</u> Signature <u></u> Typed or printed <u>William J. Clemens</u> name _____		Application Number 09/855,000	Filed May 14, 2001
		First Named Inventor Schuster	
		Art Unit 2435	Examiner L. Truvan
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/98) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>26,855</u>		<u></u> Signature <u>William J. Clemens</u> Typed or printed name <u>248-960-2100</u> Telephone number <u>October 13, 2009</u> Date Registration number if acting under 37 CFR 1.34 _____	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____			
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input type="checkbox"/> *Total of _____ forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted
to the Commissioner for Patents on:

OCTOBER 13, 2009
Date of signature and transmission

By

William J. Clemens
William J. Clemens

RECEIVED
CENTRAL FAX CENTER

OCT 13 2009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: KILIAN SCHUSTER et al.)	Group Art Unit: 2435
)	
Serial No. 09/855,000)	Examiner: L. Truvan
)	
Filed: May 14, 2001)	Attorney Docket: 15632
)	
For: METHOD OF INITIATING A SECURITY)	Confirmation No.: 1245
PROCEDURE WITHIN A BUILDING)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Honorable Sir:

Review of the above-identified application is requested for the following reasons:

1. In the Final Office Action dated September 17, 2009, the Examiner rejected Claims 21-31 under 35 U.C. 103(a) as being unpatentable over Allen, et al. (US 6,000,505) and further in view of Scheldt (US 7,111,173).

2. Allen teaches an elevator system operable as an emergency egress and evacuation means during a fire incident in a building. Upon detection by a sensor of a fire incident in the building, a communication mechanism sends a detection signal and a status signal to a remote fire department (col. 6, lines 1-7). The communication mechanism is included in a signal control system that controls the operation of the elevator during the fire incident. On pages 5 and 9 of the Final Office Action, the Examiner states that Allen reads on the limitations of steps "a" through "e" of Claims 21

15632

1

and 31 respectively, but "does not go into further details of generating virtual key based the requirement and steps f-i related to the generated virtual key."

3. On page 5, the Examiner stated that in Allen a procedure can broadly be given as opening/closing predetermined doors, operation of fire doors, sounding alarms, elevator functions, etc. (col. 6, lines 50-64 and col. 9, lines 25-30). On page 4, the Examiner stated that Allen defines the initiating event as an emergency or fire/smoke condition causing a signal (col. 5, line 63 - col. 6, lines 17) to a building security station, to a fire department, and to an alarm system to alert or alarm a fire/smoke so that procedure(s) is initiated accordingly (col. 3, lines 3, lines 40-62 and col. 4, lines 37-49). On page 3, the Examiner stated that Allen discloses defining at least one security requirement for the procedure [Col. 3, lines 52-62 and col. 9, lines 25-30]. The procedures identified by the Examiner are all performed by the signal control system. Allen does not discuss any "security requirement" for the procedures in the cited text and the Examiner has not identified such a "security requirement" in Allen.

4. The Examiner also did not cite any portion of Allen as teaching the step of "generating a virtual key". Allen is completely silent as to the generation of a "virtual key" (Applicant's step e). Thus, Allen does not disclose Applicant's steps "b" and "e".

5. The Examiner cited Scheidt for teaching steps e-f of Claims 21 and 31. Scheidt describes a cryptographic key management system CKM for use with large distributed networks. A user receives a "first-use" password to access credentials and then changes the password (col. 5, lines 22-40). The user credentials must be decrypted before use with a key derived from the user's id and password.

6. There is no motivation to combine Allen and Scheidt in the manner suggested by the Examiner. The Allen system is an automatic building evacuation system with a control unit programmed to automatically define an evacuation zone and to drive elevator cars to evacuate building occupants (col. 6, lines 18-35). For the building evacuation, the physical presence of firemen is not necessary (col. 7, lines 22-24). The fire department can override the emergency evacuation from a building main lobby or from a fire alarm panel (col. 8, lines 12-14). Access to the lobby or the panel occurs by using the ASME A17.1 code required fire department key (col. 4, lines 10-

24). This key is not generated upon detecting the occurrence of the initiating event as recited in Applicant's step "e".

7. Allen does not provide any reason to generate a "first-use" password for the fire department personnel, nor is there any portion of the Allen process of monitoring and control of the building's status for which the Scheidt "first-use" password could be substituted.

8. Furthermore, Applicant's claims recite the steps of:

- g. detecting use of the virtual key by the at least one person in the building;
- h. checking the validity of the virtual key; and
- i. initiating the procedure within the building if the validity check is positive wherein initiating the procedure consists of performing at least one of the steps of:
 - opening of at least one door of the building;
 - making at least one elevator available;
 - opening of at least one elevator door; and
 - release of any security barriers which may be present.

If, as suggested by the Examiner, the Allen system generates the Scheidt "first-use" password to the fireman, the Allen procedure of opening/closing predetermined doors, operation of fire doors, sounding alarms, elevator functions, etc. (col. 6, lines 50-64 and col. 9, lines 25-30) has already been initiated by the signal control system in response to the detection of the emergency or fire/smoke condition. Thus, Allen teaches away from generating a virtual key to be used by the fire department personnel in the building as recited in Applicant's claims.

9. The Scheidt "first-use" password only enables a user of the computer system to decrypt credentials before they can be used for the first time. Once the credentials have been decrypted, a new password must be provided for subsequent encryption and decryption. (col. 9, lines 4-9) Thus, the result of a positive validity check of the "first-use" password will not result in the performance of Applicant's step "i" and the combination of Allen and Scheidt as proposed by the Examiner does not render Applicant's claims obvious.

10. Scheidt involves safeguarding data. Access to the data is restricted utilizing a combination of credentials and passwords to individually identify authorized users of the computer system. There is no reason to individually authenticate firemen prior to fighting a fire in a building. Therefore, neither Allen nor Scheidt generates a virtual key or transmits a virtual key to a person according to the steps recited in Applicant's Claims 21-31.

11. Applicant believes that the claims of record define patentable subject matter over the art of record.

Respectfully submitted,



William J. Clemens, Reg. No. 26,855
(248) 960-2100

Fraser Clemens Martin & Miller LLC
28366 Kensington Lane
Perrysburg, Ohio 43551-4163
419-874-1100
419-874-1130 (FAX)